

§ 1206.106 What are my responsibilities to place production into marketable condition and to market production?

You must place oil in marketable condition and market the oil for the mutual benefit of the lessee and the lessor at no cost to the Federal Government. If you use gross proceeds under an arm's-length contract in determining value, you must increase those gross proceeds to the extent that the purchaser, or any other person, provides certain services that the seller normally would be responsible to perform to place the oil in marketable condition or to market the oil.

§ 1206.107 How do I request a value determination?

(a) You may request a value determination from ONRR regarding any Federal lease oil production. Your request must:

- (1) Be in writing;
- (2) Identify specifically all leases involved, the record title or operating rights owners of those leases, and the designees for those leases;
- (3) Completely explain all relevant facts. You must inform ONRR of any changes to relevant facts that occur before we respond to your request;
- (4) Include copies of all relevant documents;
- (5) Provide your analysis of the issue(s), including citations to all relevant precedents (including adverse precedents); and
- (6) Suggest your proposed valuation method.

(b) ONRR will reply to requests expeditiously. ONRR may either:

- (1) Issue a value determination signed by the Assistant Secretary, Policy, Management and Budget; or
- (2) Issue a value determination by ONRR; or
- (3) Inform you in writing that ONRR will not provide a value determination. Situations in which ONRR typically will not provide any value determination include, but are not limited to:
 - (i) Requests for guidance on hypothetical situations; and
 - (ii) Matters that are the subject of pending litigation or administrative appeals.

(c)(1) A value determination signed by the Assistant Secretary, Policy, Management and Budget, is binding on both you and ONRR until the Assistant Secretary modifies or rescinds it.

(2) After the Assistant Secretary issues a value determination, you must make any adjustments in royalty payments that follow from the determination and, if you owe additional royalties, pay late payment interest under § 1218.54 of this chapter.

(3) A value determination signed by the Assistant Secretary is the final action of the Department and is subject to judicial review under 5 U.S.C. 701-706.

(d) A value determination issued by ONRR is binding on ONRR and delegated States with respect to the specific situation addressed in the determination unless the ONRR (for ONRR-issued value determinations) or the Assistant Secretary modifies or rescinds it.

(1) A value determination by ONRR is not an appealable decision or order under 30 CFR part 1290.

(2) If you receive an order requiring you to pay royalty on the same basis as the value determination, you may appeal that order under 30 CFR part 1290.

(e) In making a value determination, ONRR or the Assistant Secretary may use any of the applicable valuation criteria in this subpart.

(f) A change in an applicable statute or regulation on which any value determination is based takes precedence over the value determination, regardless of whether the ONRR or the Assistant Secretary modifies or rescinds the value determination.

(g) The ONRR or the Assistant Secretary generally will not retroactively modify or rescind a value determination issued under paragraph (d) of this section, unless:

- (1) There was a misstatement or omission of material facts; or
- (2) The facts subsequently developed are materially different from the facts on which the guidance was based.

(h) ONRR may make requests and replies under this section available to the public, subject to the confidentiality requirements under § 1206.108.